

WILLIAM M. HAND

IBLA 80-907

Decided April 29, 1981

Appeal from decision of Montana State Office, Bureau of Land Management, declaring mining claims abandoned and void. M MC 30797 through M MC 30800.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Mining Claim--Mining Claims: Abandonment--Mining Claims: Assessment Work

Under sec. 314(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(a) (1976), and 43 CFR 3833.2-1(a), the owner of an unpatented mining claim located on or before Oct. 21, 1976, and recorded with BLM in 1979, is required to file evidence of annual assessment work or notice of intention to hold the claim on or before Oct. 22, 1979. Failure to file conclusively constitutes abandonment of the claim and renders it void.

2. Notice: Generally--Regulations: Generally--Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: W. G. Gilbert III, Esq., Dillon, Montana, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

William M. Hand has appealed from a decision of the Montana State Office, Bureau of Land Management (BLM), dated July 25, 1980, declaring the Janice Sue, Goldmont Nos. 5 and 6, and Southmont No. 7 mining claims abandoned and void for failure to file timely evidence of annual assessment work pursuant to section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and its implementing regulations, 43 CFR 3833.2-1(a) and 43 CFR 3833.4(a).

Appellant's mining claims were located before October 21, 1976, and recorded with BLM on August 13, 1979. On January 4, 1980, BLM received an "Affidavit of Annual Representation of Mining Claim" with respect to each of the claims, indicating assessment work performed during the 1979 assessment year.

In his statement of reasons for appeal, appellant admits that evidence of annual assessment work was not timely filed. However, he contends that filing "becomes secondary in nature as long as the claim is, in fact, 'worked.'" Furthermore, he argues that there was "confusion," even among BLM employees, as to the date for filing, and that the news media reported December 31, 1979, as the date for filing. He argues that he made a good faith effort to comply with the December 31 filing deadline and that to declare his claims void would result in a "substantial injury."

[1] The applicable regulation, 43 CFR 3833.2-1(a), states that the owner of an unpatented mining claim located on or before October 21, 1976, shall file evidence of annual assessment work in the proper BLM office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of recording, "which ever date is sooner." (Emphasis added.) See 43 U.S.C. § 1744(a) (1976).

Pursuant to this regulation, appellant was required to file "on or before October 22, 1979," as this date was "sooner" than December 30, 1980, i.e. "December 30 of [the] calendar year following the calendar year of recording." 43 CFR 3833.2-1(a). 43 CFR 3833.4(a) provides that failure to satisfy the filing requirement of 43 CFR 3833.2-1(a) results in a conclusive presumption of abandonment and the claim "shall be void." See 43 U.S.C. § 1744(c) (1976).

Appellant argues that there was confusion as to the date for filing among BLM employees with whom he "conferred privately." Also the news clipping, which appellant submitted, notified mining claimants that the date for filing was "Dec. 30" and provided a number to call "[f]or more information." That phone number is associated with the Montana State Office. However, appellant may not rely on this "confusion" to excuse his admitted late filing. In fact, such confusion might have alerted appellant that further investigation into the proper filing date was necessary. See John Plutt, Jr., 53 IBLA 313 (1981).

[2] In any case, all persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Edward W. Kramer, 51 IBLA 294 (1980). Moreover, reliance on erroneous information provided by BLM employees cannot relieve the owner of an unpatented mining claim of an obligation imposed by statute or regulation, or create rights not authorized by law, or relieve the claimant of the consequences imposed by the statute for failure to comply with its requirements. Lynn Keith, 53 IBLA 192, 88 I.D. (1981); Northwest Citizens for Wilderness Mining Co., Inc., 33 IBLA 317 (1978); aff'd, Northwest Citizens for Wilderness Mining Co., Inc. v. BLM, Civ. No. 78-46-M (D. Mont. June 19, 1979).

Finally, in enacting the filing requirements of FLPMA, supra, Congress did not invest the Secretary of the Interior with authority either to waive or excuse compliance with the statute or to afford mining claimants any relief from the statutory consequences. Lynn Keith, supra.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bruce R. Harris
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Gail M. Frazier
Administrative Judge

